

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM DECEMBER 9, 2009
OPEN SESSION

MINUTES OF DECEMBER 9, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN LAKE CHARLES, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of December 9, 2009, convening at 9:49 A.M. and adjourning at 12:55 P.M., Police Jury Meeting Room, 1015 Pithon Street, Lake Charles, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Holloway welcomed everyone to Lake Charles and thanked everyone for coming. He also thanked all of his staff for their hard work and assistance.

Commissioner Holloway recognized Mark McMurry, Administrator for the Police Jury, Hal McMillin, Parish President, Mayor Roach, and George Swift, President, Chamber of Commerce.

Commissioner Campbell stated that he enjoyed the reception the previous night and thanked Commissioner Holloway for hosting a meeting in his district.

Ex. 2 **T-30924** - Louisiana Public Service Commission vs Blue Fin Logistics (Broussard, Louisiana).
In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority on one count; allegedly occurring on or about August 25, 2008.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and find Blue Fin Logistics of Broussard, Louisiana guilty of violating La. R.S. 45:164 on August 25, 2008 by operating without Louisiana Public Service Commission authority. It was further ordered that a fine in the amount of \$2000, with \$1000 suspended conditioned upon no further violations by the Carrier within one calendar year of the issuance of the order, plus a \$25 citation fee be imposed and that the Carrier apply for authority. This fine is to be paid to the Commission within fifteen (15) days of the issuance of the Order.

Ex. 3 **T-30926** - Louisiana Public Service Commission vs Double D Trucking (Lafayette, Louisiana).
In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority on twelve counts; allegedly occurring on or between August 14, 2008 and August 15, 2008.

Commissioner Skrmetta made a motion to accept Staff Recommendation and Commissioner Campbell seconded this motion. However, both subsequently withdrew their motion and second.

Commissioner Field offered a substitute motion to find Double D Trucking of Lafayette, Louisiana guilty of violating La. R.S. 45:164 on August 14 & 15, 2008 by operating without Louisiana Public Service Commission authority; impose a fine in the amount of \$4,800, with \$2,000 suspended conditioned upon no further violations by the Carrier within one calendar year of the issuance of the order, plus a \$25 citation fee for a total of \$2,825 to be paid to the Commission within fifteen (15) days of the issuance of the Order; and order the Carrier to apply for Commission authority. Commissioner Holloway seconded this motion and it was unanimously adopted.

Ex. 4 **T-30970** - Louisiana Public Service Commission vs B & N Contractors (Haynesville, Louisiana).
In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without L.P.S.C. authority on twenty-two counts; allegedly occurring on or about July 20, 2008 through October 21, 2008.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously

adopted, the Commission voted to find B & N Contractors guilty on eleven (11) counts of violating La. R.S. 45:164 by operating intrastate as a common carrier of waste without Louisiana Public Service Commission authority and fine the Carrier \$300 per count plus a \$25 citation fee, for a total of \$3,325.

- Ex. 5 **T-31136** - Louisiana Public Service Commission vs Turkey Creek Trucking, Inc. (Haynesville, Louisiana). In re: Cancellation of Common Carrier Certificate Number 7213 for failure to obtain annual vehicle identification stamps for 2009 with the Commission as required by LRS 45:169 and/or 180.1; and to pay a citation fee of TWENTY FIVE DOLLARS (\$25.00).

PASSED

- Ex. 6 **T-30933** - T.J.'s Mighty Movers LLC (Bossier City, LA), ex parte. In Re: Application to amend Tariff (household goods) for LPSC No. 7254 by revising the existing tariff, and increasing various rates.

In re: Discussion and Possible Vote on Stipulated Agreement Pursuant to Rule 57.

Last month's Ex. 7

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to evoke its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, with Commissioners Boissiere and Skrmetta concurring and Commission Campbell recusing himself, the Commission voted to accept the Staff Recommendation and grant the Company's requested rate increase in its base rate for two movers and one truck from \$72 to \$75 per hour.

- Ex. 7 **R-30579** – Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Order dated March 25, 2003, with regards to nonconsensual towing and recovery rates, including but not limited to the 15% surcharge on equipment rental and labor subcontracted for, as provided for in Attachment "A", Section E 4. ***In addition, the Commission will review and assess the entire General Order and compare the economic studies performed in 1999 and the economic study recently completed and submitted to the Commission on July 10, 2008, by the Towing & Recovery Professionals of Louisiana, Inc., to review all rates, including but not limited to all hourly rates.***

In re: Discussion and possible vote on proposed order.

Last Month's Ex. 15

PASSED

- Ex. 8 **U-30192 Phase III** - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

In re: Discussion and Possible Vote on Proposed Budget Submitted by Exeter Associates.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the expanded scope of work and budget proposal permitting Exeter to assist Staff with Phase III of this proceeding for an additional budget of \$70,000 in services and \$2,000 in expenses.

- Ex. 9 **U-21453, U-20925 and U-22092 Sub J** - Entergy Gulf States, Inc., ex parte. In re: Request for the approval of the Jurisdictional Separation Plan for Entergy Gulf States, Inc.

In re: Discussion and Possible Vote on Uncontested Stipulated Settlement.

On motion of Commissioner Boissiere, seconded by Commissioner Skrmetta, and unanimously

adopted, the Commission voted to (1) accept and adopt the Stipulation proposed by the Staff and EGSL; (2) issue a final order incorporating the terms of that Stipulation; (3) find that the adherence by EGSL to the terms of the Stipulation, as incorporated in the final order, shall constitute compliance with the Commission Order Nos. U-21453, U-20925 and U-22092 (Subdocket J) dated January 31, 2007; and (4) approve the jurisdictional separation of EGS.

Ex. 10 **U-27469 Subdocket A** - Louisiana Public Service Commission, ex parte. In re: Examination into whether Entergy Gulf States Louisiana L.L.C. and Entergy Louisiana, LLC.'s proposed new "avoided cost" calculation methodology is proper and allowable under Commission General Order dated February 27, 1998 (Docket No. U-22739) – Audit of Time Period from January 1, 2008 through December 31, 2009.

In re: Request for expansion of scope of work and budget for outside counsel and consultant.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and 1) expand the scope of work for the Stone Pigman law firm and retain the firm to assist Staff with the 2008-2009 audit noticed in Docket No. U-27469 Sub. A for an amount not to exceed \$62,000.00 in fees and \$5,000.00 in expenses, as specified in the budget proposal letter and 2) expand the scope of work for the Henderson Ridge Consulting and retain the firm to assist Staff with the 2008-2009 audit noticed in Docket No. U-27469 Sub. A for an amount not to exceed \$79,580 with expenses not to exceed \$8,000 for a total budget of \$87,580, as specified in the budget proposal letter

Ex. 11 **U-31196** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Purchase Power Block Two of the Acadia Energy Center, and Joint Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval to Participate in Certain Related Contracts for the Purchase of Capacity and Electric Power and for Cost Recovery.

In re: Request to issue RFP to hire consultant to assist Staff with this evaluation.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to grant Staff's request to issue RFPs to hire a consultant in this matter.

Ex. 12 **U-30874** - Water Treatment & Controls Company d/b/a Peoples Water Service Company of Bastrop (Bastrop, Louisiana), ex parte. In re: Application for an increase in rates for water and water service in the City of Bastrop and its environs.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Agreement.

At the request of Commissioner Campbell.

Last month's Ex. 27.

PASSED

Ex. 13 **S-31097** - TracFone Wireless, Inc., ex parte. In re: Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Louisiana for the Limited Purpose of Offering Lifeline Service to Qualified Households.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the limited ETC designation sought herein, subject to the following conditions: 1) That TracFone's designation be limited to Lifeline universal service support; 2) That TracFone be ineligible to receive federal high cost universal service support; 3) That TracFone's designation as an ETC will have no effect on the definition of rural LEC study areas; 4) That TracFone's designation as an ETC will have no ability to affect the designation of rural LEC study areas on a going forward basis; and 5) That TracFone be required to comply with the requirements of the Commission's General Order no. R-27841, including the reporting requirements established herein.

- Ex. 14 **R-30820 – Louisiana Public Service Commission, ex parte. In re: Identification and evaluation of potential methods to decrease the vulnerability of electric utility transmission infrastructure in response to severe weather events.**
- In re: Staff Report**
- On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to direct the “transmission team” previously hired in Dockets R-30783, U-23356 Sub A and U-28155 to address transmission related issues submit a budget to Staff to perform a review and analysis of Cleco and Entergy’s filings in Docket R-30820.
- Ex. 15 Lafourche Telephone Company, ex parte. In re: Request for Commission approval of change to local white page telephone directory font size pursuant to General Order dated 2/14/02.
- On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant Lafourche’s request to modify the font type and size in its directories.
- Ex. 16 Clarification regarding Swearing In Rule.
- Last Month’s Ex. 22.**
- On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to clarify the “swearing in” rule as follows: 1) When an attorney appears before this Commission as legal representative of an entity, business or agency, the attorney need not be sworn or placed under oath. The Louisiana State Bar Association Rules of Professional Conduct are sufficient to insure correct and appropriate testimony. 2) However, in the event that a person licensed to practice law appears before the Public Service Commission as a fact witness or a corporate officer, than that person shall be sworn in just as any witness offering testimony in a proceeding before the Commission.
- Ex. 17 Discussion and possible vote regarding participation of in-house staff attorneys in cases involving outside counsel and consultants.
- At the request of Commissioner Skrmetta.**
- Last Month’s Ex. 23**
- PASSED**
- Ex. 18 Discussion and possible vote regarding creation of a mediation program by the LPSC.
- At the request of Commissioner Skrmetta.**
- Last Month’s Ex. 24**
- On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to immediately institute a program of mediation of disputes and claims, by and between ratepayers, and all regulated companies; as well as, disputes by and between all regulated companies and the Louisiana Public Service Commission, as outlined in the record.
- On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to direct Staff to open a rulemaking on this issue and report back next month.
- Ex. 19 Report of Special Counsel regarding 11/19/2009 decision in FERC Docket No. ER09-636-000.
- In re: Possible Executive Session pursuant to LA R.S. 42:6.1 to discuss litigation strategy.**

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Campbell, seconded by Commissioner Field, with Commissioners Boissiere and Holloway concurring and Commissioner Skrmetta temporarily absent, the Commission voted to come out of Executive Session.

- Ex. 20
- 1) Reports
 - 2) Resolutions
 - 3) Discussions

Commissioner Campbell directed Staff to follow the Governor's Broadband Task Force and report back next month on the status.

Commissioner Holloway echoed Commissioner Campbell's concerns regarding broadband.

Commissioner Skrmetta would like Staff to look into getting wireless internet where broadband is not available.

Commissioner Field stated his concern on AT&T's performance and whether they are meeting their service standards.

Commissioner Campbell stated that he and Commissioner Holloway were guests in Natchitoches for a meeting regarding SWEPCO buying Valley Electric and that he feels this would be good for the ratepayers. Commissioner Campbell also stated that an endowment fund is being established, which will be voted on by ratepayers and then brought to the Commission for approval.

- Ex. 21
- U-30913 - Cleco Power LLC, ex parte. In re: Application of Cleco Power LLC for Certificate of Public Convenience and Necessity for Authorization to Construct, Own, and Operate a Blackstart Generating Unit at Existing Teche Power Station; and Expedited Treatment.**

In re: Discussion and Possible Vote on Proposed Uncontested Stipulated Settlement.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the Proposed Uncontested Stipulated Settlement pursuant to the conditions read into the record.

- Ex. 22
- S-31158 - Washington-St. Tammany Electric Cooperative, Inc., (Franklinton, LA), ex parte. In re: Request for lines of credit approval with Co-Bank; Request for letter of non-opposition.**

At the request of Commissioner Skrmetta.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept Staff Recommendation and issue the requested letter of non-opposition pursuant to the conditions read into the record.

- Ex. 23
- U-30192 Phase III - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.**

In re: Request to issue RFP for outside counsel to assist Staff in this matter.

At the request of Commissioner Field.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the issuance of RFPs to hire outside counsel to assist Staff in this matter.

Ex. 24 Presentation on Star PSC Program.

At the request of Commissioner Field.

Brent LeBlanc, IT Director for the Louisiana Public Service Commission, gave a presentation on the new Star PSC Program.

Ex. 25 **R-30738, Consolidated with U-23356 Sub A, U-27136 and U-28155**

In re: Request by the Commission Staff to Reverse the Consolidation of Dockets.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and reverse the consolidation of Dockets R-30738, U-23356 Sub A, U-27136 and U-28155.

MEETING ADJOURNED

The next Business and Executive Session will be held January 13, 2010 at 9:00 a.m. in Baton Rouge, Louisiana.